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COURT OF APPEAL, FOURTH APPELLATE DISTRICT

DIVISION ONE

STATE OF CALIFORNIA

GEORGE NEWMAN,

Plaintiff and Appellant,

v.

THE LOAN COMPANY OF SAN DIEGO,
L.P. et al.,

Defendants and Respondents.

D070263

(Super. Ct. No.
37-2015-00014140-CU-WE-NC)

APPEAL from a judgment of the Superior Court of San Diego County, Earl H. Mass III, Judge. Affirmed.

George Newman, in pro. per., for Plaintiff and Appellant.

Coughlin Law Firm and Sean Christopher Coughlin for Defendants and Respondents.

George Newman, who is self-represented, appeals a judgment of dismissal entered against him after the trial court sustained a demurrer brought by The Loan Company of San Diego, L.P. and REO Group, LLC (collectively TLC). Newman fails to raise any cognizable legal error; accordingly, we affirm the judgment.

FACTUAL AND PROCEDURAL BACKGROUND¹

In December 2007, Newman executed a promissory note evidencing a \$475,000 loan from TLC, secured by a trust deed lien on Newman's car wash business. At some point, Newman defaulted on the loan and stopped paying his property taxes to the County of San Diego Treasurer-Tax Collector. By early 2015, Newman owed over \$100,000 in unpaid property taxes. A notice of default and election to sell under deed of trust was recorded. A notice of trustee's sale was recorded on April 24, 2015.

On April 28, 2015, Newman filed a complaint against TLC, asserting three causes of action. TLC demurred to Newman's complaint. Newman opposed TLC's demurrer, and filed the first amended complaint against TLC alleging: (1) fraud or deceit; (2) violation of Code of Federal Regulations section 226.20; (3) violation of California Welfare and Institutions Code section 15610.30; (4) "set aside trustee's sale"; (5) "cancel trustee's deed upon sale"; (6) quiet title; and (7) unfair business practices. (Some capitalization omitted.)

TLC again demurred. The trial court sustained the demurrer and dismissed the action without leave to amend: "[Newman's] first cause of action is barred by the three[-]year statute of limitations. The second cause of action fails as Code of Federal Regulations section 226.20 only applies to consumer loans. The third cause of action states a claim that does not apply to commercial mortgage transactions. The fourth cause

¹ Newman's opening brief provided little relevant factual and procedural information. As a result, this opinion's background information is taken from the operative first amended verified complaint and attached documents.

of action only applies to owner[-]occupied mortgages. The [f]ifth, [s]ixth, and [s]eventh causes of action are all derivative of the first four."

I.

Principles of Appellate Review

As a general rule, "[a] judgment or order of the lower court is presumed correct [with] [a]ll intendments and presumptions . . . indulged to support it on matters as to which the record is silent." (*Denham v. Superior Court* (1970) 2 Cal.3d 557, 564, italics omitted.) To obtain reversal, the appellant must affirmatively demonstrate error on the record before the court. (*Ibid.*) Further, an appellate court is not required to independently search the record for errors, or "consider alleged errors where the appellant merely complains without a pertinent argument." (*Benach v. County of Los Angeles* (2007) 149 Cal.App.4th 836, 852; *Guthrey v. State of California* (1998) 63 Cal.App.4th 1108, 1115.) Rather, the appellant must "support each point by argument and, if possible, by citation of authority" and "[s]upport any reference to a matter in the record by a citation to the volume and page number of the record where the matter appears." (Cal. Rules of Court, rule 8.204 (a)(1).) "When an appellant fails to raise a point, or asserts it but fails to support it with a reasoned argument and citations to authority, we treat the point as waived." (*Benach v. County of Los Angeles*, at p. 852.) Finally, this court must hold a self-represented litigant to the same restrictive procedural rules as an attorney. (*Nwosu v. Uba* (2004) 122 Cal.App.4th 1229, 1247.)

II.

Analysis

Newman's arguments are insufficient to show that the trial court erred by sustaining TLC's demurrer without leave to amend. Newman's briefs fail to address or apply the appropriate standard of review, which can "in and of itself, be considered a concession of lack of merit." (*James B. v. Superior Court* (1995) 35 Cal.App.4th 1014, 1021.)

On appeal, Newman argues his case anew, rather than addressing the trial court's ruling. In a disjointed manner, Newman states that his loan's interest rate adjustment term was not dictated by the terms underlined on the front page of the promissory note that he signed, but rather by the terms of an unsigned letter executed prior to his signing the promissory note. Newman recites the contents of the competitive tender bid offered to him, and alleges that "it is the law of contracts, around the world, that in competitive bidding, the bid tendered . . . becomes the legal contract . . . the moment that the bidder's bid, has been accepted" (Capitalization omitted.) He states that "[a]ny deviation, from this rule of law, becomes a violation[] of the Federal Fair Trade Commission, the California Consumer Protection Act, and the California Business and Professions Code."

An appellate argument is not merely a rehash of arguments unsuccessful at trial, but a carefully honed assertion of legal error and resulting prejudice. The job of the appellant is to demonstrate to this court the trial court erred in specific ways that resulted in identifiable prejudice to the parties. This court will not presume prejudice; it is Newman's obligation to demonstrate prejudice through reasoned arguments. (See *Cassim*

v. Allstate Ins. Co. (2004) 33 Cal.4th 780, 800-802; *Paterno v. State of California* (1999) 74 Cal.App.4th 68, 105-106 ["[O]ur duty to examine the entire cause arises when and only when the appellant has fulfilled his duty to tender a proper prejudice argument. Because of the need to consider the particulars of the given case, rather than the type of error, the appellant bears the duty of spelling out in his brief exactly how the error caused a miscarriage of justice."].) Newman has not demonstrated error or prejudice sufficient to overcome the presumption of correctness afforded to the trial court's judgment. (*Denham v. Superior Court, supra*, 2 Cal.3d at p. 564.)

DISPOSITION

The judgment is affirmed.

O'ROURKE, J.

WE CONCUR:

BENKE, Acting P. J.

IRION, J.